

1  
2  
3  
4  
5  
6 UNITED STATES DISTRICT COURT  
7 DISTRICT OF NEVADA

8 \* \* \*

9 BILL LIETZKE

10 Plaintiff,

11 v.

12 CITY OF MONTGOMERY, *et al.*,

13 Defendants.

Case No. 3:17-cv-00075-MMD-VPC

ORDER ACCEPTING AND ADOPTING  
REPORT AND RECOMMENDATION OF  
MAGISTRATE JUDGE  
VALERIE P. COOKE

14 Before the Court is the Report and Recommendation of United States Magistrate  
15 Judge Valerie P. Cooke (ECF No. 4) ("R&R") relating to Plaintiff's Application to Proceed  
16 *In Forma Pauperis* (ECF No. 1) and *pro se* complaint (ECF No. 1-1). Plaintiff had until  
17 April 21, 2017 to file an objection ("Objection"). (ECF No. 4.) Plaintiff filed his objection  
18 on April 28, 2017. (ECF No. 5.) While Plaintiff's Objection was untimely, the Court has  
19 considered his objection.

20 This Court "may accept, reject, or modify, in whole or in part, the findings or  
21 recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1). Where a party  
22 timely objects to a magistrate judge's report and recommendation, then the court is  
23 required to "make a *de novo* determination of those portions of the [report and  
24 recommendation] to which objection is made." 28 U.S.C. § 636(b)(1). In light of Plaintiff's  
25 objection, the Court engages in a *de novo* review to determine whether to adopt  
26 Magistrate Judge Cook's Recommendation.

27 The Magistrate Judge recommends that the Court grant Plaintiff's application to  
28 proceed *in forma pauperis*. The Magistrate Judge further recommends that this case be

1 dismissed for lack of personal jurisdiction because plaintiff and defendants are alleged to  
2 be residents of Alabama and there are no allegations of contacts with Nevada. In his  
3 Objection, Plaintiff cites to general case law governing personal jurisdiction, but it is clear  
4 that this Court lacks personal jurisdiction over named out of state defendants. Upon  
5 reviewing the Recommendation and Plaintiff's filings, this Court finds good cause to  
6 adopt the Magistrate Judge's Recommendation in full.

7 It is therefore ordered, adjudged and decreed that the Report and  
8 Recommendation of Magistrate Judge Valerie P. Cooke (ECF No. 4) is accepted and  
9 adopted in its entirety.


10 It is ordered that Plaintiff's motion to proceed *in forma pauperis* (ECF No 1) is  
11 granted.

12 It is further ordered that the Clerk file the Complaint (ECF No. 1-1).

13 It is further ordered that the complaint is dismissed without prejudice.

14 The Clerk is instructed to close this case.

15 DATED THIS 28<sup>th</sup> day of April 2017.

16  
17   
18 \_\_\_\_\_  
19 MIRANDA M. DU  
20 UNITED STATES DISTRICT JUDGE  
21  
22  
23  
24  
25  
26  
27  
28